

Kody Rother
August 23, 2023

1

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF INDIANA

CIVIL ACTION NO. 1:22-cv-01828-SEB-MG

JOHN DOE,)
)
Plaintiff,)
)
V.)
)
BUTLER UNIVERSITY,)
)
Defendant.)

Deposition by Zoom of KODY ROTHER, a witness who appeared remotely before me, Valerie Fillenwarth, RPR, a Notary Public in and for the County of Johnson, State of Indiana, taken on behalf of the Plaintiff, with all parties appearing via Zoom, taken on August 23, 2023, commencing at 10:00 a.m., pursuant to all applicable rules, with Notice as to the time and place thereof.

FILLENWARTH REPORTING SERVICE
775 Hummingbird Lane
Whiteland, Indiana 46184
(317) 345-6179
vfillenwarth@gmail.com

Fillenwarth Reporting Service
317.345.6179

EXHIBIT

6

Kody Rother
August 23, 2023

15

1 A. A company in Cleveland, it's called Flack
2 Global Metals.

3 Q. Okay. And what were the dates of the
4 employment there?

5 A. Either September or October of '21, I think it
6 was October of '21 into February of '22.

7 Q. Okay. So you were there for approximately six
8 months or less, is that a fair statement?

9 A. Yeah.

10 Q. And what did you do at Flack Global Metals?

11 A. It was -- there's this training program that
12 they had instituted. I forget what the exact
13 title was, but you essentially kind of like
14 bounced around departments to get a sense of
15 the program, of what they do. And the role I
16 had was essentially as metal is moving, like
17 being shipped from place to place, I received
18 kind of like the bills of notice of that and
19 helped track that in our system. So I would
20 see like when it moved from location A to
21 location B, like mark when it left, mark when
22 it arrived, to let the people who are selling
23 it keep their clients up to date.

24 Q. And what made you want to join Flack Global
25 Metals?

Kody Rother
August 23, 2023

16

1 A. So it's in Cleveland, which is where my wife is
2 from. She'd been wanting to get back home for
3 a while. And so a friend of mine worked there
4 and had mentioned that they had an opening.

5 Q. Okay. And is that what prompted your move back
6 to the Cleveland area?

7 A. Yeah.

8 Q. Okay. And where did you work before you worked
9 at Flack Global Metals?

10 A. Butler.

11 Q. Got it. And when you were at Butler -- when
12 did you start at Butler?

13 A. I know the year was 2018. The exact month,
14 honestly, I'm not sure. I would estimate like
15 summer, but the exact month, I'm not sure what
16 that was.

17 Q. Okay. And what title did you start at when you
18 started at Butler?

19 A. Assistant dean of students.

20 Q. And did you receive any title changes
21 throughout your time at Butler?

22 A. Yeah. Towards the end I received the title
23 associate dean of students.

24 Q. And you may have possibly already answered a
25 part of this, but what prompted you to end your

Kody Rother
August 23, 2023

22

1 understand the question.

2 Q. Sure. So if you started at Butler around 2018,
3 sometime in the summer, did you have any jobs
4 before that?

5 A. Yes.

6 Q. Okay. And where did you work before that?

7 A. I worked at IUPUI before Butler.

8 Q. And when did you work at IUPUI?

9 A. I started in 2017.

10 Q. And so how long were you employed there?

11 A. A little over a year.

12 Q. And what was your role while you were at IUPUI?

13 A. I was assistant director of student conduct.

14 Q. And what prompted you to move on from IUPUI?

15 A. I received a message from my former supervisor,
16 that there was a position open at Butler, who
17 encouraged to apply.

18 Q. Okay. And where were you employed before
19 IUPUI?

20 A. At Roanoke College.

21 Q. And how long were you employed there?

22 A. About five years.

23 Q. And what was your role while you were there?

24 A. Several iterations. I started as -- the term
25 was area coordinator, and then that same role,

Kody Rother
August 23, 2023

23

1 different title, it got changed to assistant
2 director of residence life. And then before
3 leaving, had been promoted into the associate
4 director of residence life. In between that,
5 had the interim director of res life, between
6 assistant and associate, like a couple months,
7 I was the interim director while they did a
8 search.

9 Q. When you were at Roanoke, did you conduct
10 investigations of Title IX reports or sexual
11 misconduct reports at all?

12 A. Yes.

13 Q. Okay. And for approximately how long?

14 A. So I received training -- I think I was trained
15 for about a year or two while I was there.

16 Q. Okay. And what about at Roanoke, did you
17 conduct sexual misconduct investigations there
18 as well?

19 A. Yes.

20 Q. Okay. And did you do that for the -- sorry, I
21 misstated. When you were at IUPUI, did you
22 also conduct Title IX investigations?

23 A. Yes.

24 Q. Okay. And was that for your whole time at
25 IUPUI?

Kody Rother
August 23, 2023

24

1 A. No, my primary role was for like the personal
2 misconduct side. So other things that would
3 fall underneath kind of like the student code
4 was my primary role at IUPUI.

5 Q. And what were those other things that would
6 fall under the student code that you would
7 investigate at IUPUI?

8 A. Sure, things would include like DUIs that took
9 place like on IUPUI's campus. Drug -- like
10 varying levels of drugs, whether they were like
11 decriminalized or criminalized. If things took
12 place outside the residence halls but happened
13 on campus, so then our office would investigate
14 those cases. Or if they did take place in the
15 residence halls, but it was possible based on
16 the initial information that came in that
17 suspension could be an option, our office would
18 investigate those.

19 Q. And did you receive training on how to conduct
20 investigations when you were at IUPUI?

21 A. Yes.

22 Q. Did you receive training from IUPUI
23 specifically about how to conduct
24 investigations?

25 A. Yes.

Kody Rother
August 23, 2023

25

1 Q. Did you receive it from any outside entities on
2 how to conduct investigations?

3 A. Yeah.

4 Q. Okay. So who -- what outside entities trained
5 you on how to conduct investigations while you
6 were at IUPUI?

7 A. Sure. There were a couple that we had went to.
8 And so ICESA is an organization in
9 Indianapolis, it's the Indianapolis Coalition
10 to End Sexual Assault. They do various topics
11 and trainings on like that particular topic.

12 We would go to the Association of Student
13 Conduct Administrators annual conference, at
14 times they would have like sessions or
15 trainings, one in particular, the Gehring
16 Academy was one of those.

17 And then while there as well, I believe
18 it was while I was at IUPUI, we participated in
19 a FETI -- I know it's the acronym, it's like
20 Forensic something, something, interview, a
21 type of technique, involving like sensory
22 questions when speaking with folks, to help
23 like them like have an anchoring position for
24 like remembering information, were some of the
25 additional trainings that I recall, or like I

Kody Rother
August 23, 2023

26

1 believe had taken place while I was at IUPUI.

2 Q. Okay. And what about at Roanoke, did you
3 receive any trainings from Roanoke specifically
4 on how to conduct investigations?

5 A. Roanoke College did training, yes.

6 Q. And did you attend outside trainings as well
7 while you were at Roanoke or no?

8 A. I don't believe so.

9 Q. Okay. And when you were at Butler, did you
10 attend any trainings that Butler reset --
11 that -- sorry, strike.

12 When you were at Butler, do you recall if
13 you attended any trainings that Butler
14 specifically put forward about Title IX?

15 A. Yes.

16 Q. Okay. Do you recall what specific trainings?

17 A. I recall, at least in the last year that I was
18 there, they partnered with another company. I
19 frankly don't recall like the company's name.
20 But they had a like series of videos. I think
21 part of that was with the -- like the new
22 regulations, that you have to be able to post
23 like your trainings. And so I recall
24 participating in those series.

25 Prior to that, Butler did reach out --

Kody Rother
August 23, 2023

27

1 it's like the Independent Colleges, I think,
2 Association -- there's a group that Butler is
3 involved in for like independent colleges. And
4 as a group, they would bring in or provide
5 trainings for employees within, like, the
6 independent colleges.

7 Q. And did you ever receive training on
8 Butler-specific policies?

9 A. Yeah.

10 Q. Okay. And who gave you those trainings?

11 A. The Title IX coordinator had completed some
12 those.

13 Q. Okay. And do you recall who that was?

14 A. Yeah, Maria Kanger.

15 Q. And do you recall approximately how many you
16 attended?

17 A. That, I do not, no.

18 Q. Would you estimate at least one per every year
19 you were employed there?

20 A. I would estimate that.

21 Q. Okay. And do you recall approximately how long
22 any one of those trainings would take place
23 with the Title IX coordinator? Like were they
24 ten minutes? Were they an hour?

25 A. No, honestly, I don't recall how long they

Kody Rother
August 23, 2023

28

1 were. Like, I remember feeling like they're
2 not short. Like, it's not like you can go in
3 for like ten minutes and you're completed, or
4 an hour. I believe that they were scheduled
5 for like several hours if not half a day.

6 Q. And do you recall whether you ever attended a
7 training with ATIXA?

8 A. Yes.

9 Q. Okay. Did you attend a training with ATIXA?

10 A. Yes.

11 (WHEREUPON, Deposition Exhibit 127 was
12 marked for identification.)

13 BY MS. FEDERICO:

14 Q. Okay. I'm going to introduce Exhibit 127 into
15 the record. And what I'm going to do is I'm
16 going to share my screen briefly just to see if
17 you have any recollection of this. Okay. Hold
18 on just a moment. Okay. Like I said, this is
19 Exhibit 127 and it is -- starts at DEFT
20 RESP_714. I'm not going to have you go through
21 this document, but do you recognize this
22 document?

23 A. Based on -- so the ATIXA -- just off like the
24 few slides, no.

25 Q. Uh-huh. But you do recall that you attended an

Kody Rother
August 23, 2023

29

1 ATIXA training when you were at Butler, is that
2 correct?

3 A. Yes.

4 Q. Okay. I can have you review this more
5 completely to see if you recognize it, but do
6 you recall whether you attended a training
7 titled Title IX Coordinator and Administrator
8 Level 1 Training and Certification Course?

9 A. Yeah, I remember I attended a, like, Level 1.
10 What's in my head and like what I recall, it
11 was a Level 1 investigator, but, yes.

12 Q. Okay. But you don't recall exactly if it was
13 this specific document, but I would like the
14 record to reflect that the title of the first
15 slide is "Title IX Coordinator and
16 Administrator Level 1 Training and
17 Certification Course." Does that sound about
18 right to you?

19 A. Again, for me, like the specific title of the
20 course, I don't recall. But, again, like, what
21 I recall taking was the like Level 1
22 investigator course.

23 (WHEREUPON, Deposition Exhibit 121 was
24 marked for identification.)

25 BY MS. FEDERICO:

Kody Rother
August 23, 2023

34

1 Q. Okay. All right. So I'm going turn to page 3,
2 and see where it says "Sexual misconduct
3 is...", and then it says, "Sex- and
4 gender-based discrimination and harassment" and
5 "Sexual harassment." Do you see those parts?

6 A. Yes.

7 Q. Is that consistent with your understanding of
8 Butler's policies at the time?

9 A. At the time, I believe so, yes.

10 Q. Okay. And is that consistent with your
11 understanding of Title IX?

12 A. Yes.

13 Q. Did you understand Title IX to include sexual
14 orientation or sexual preference?

15 A. I believe so, yes.

16 Q. Okay. And I'm going to -- sorry, I did not
17 mean to stop sharing that. Do you see here on
18 page -- here, it says, "If you ever become
19 aware of sexual misconduct, we ask that you
20 report," and then it names two individuals,
21 "ASAP"?

22 A. Yes.

23 Q. Okay. And did you understand when you were at
24 Butler that you were a mandatory reporter of
25 sexual misconduct?

Kody Rother
August 23, 2023

35

1 MS. ROBERTS: Object as to form and
2 foundation. Kody, you can answer.

3 A. Yes.

4 BY MS. FEDERICO:

5 Q. Okay. I'm going to stop sharing that now.

6 So do you recall when you were at Butler
7 if you received any specific training on how to
8 investigate under Butler's policies?

9 A. I believe so, yes.

10 Q. Okay. Do you recall what those trainings were?

11 A. Sure. Yes, again, like the annual trainings
12 that we would receive are the ones that, like,
13 come to mind on investigating under, like,
14 Butler's policy.

15 Q. And you said "annual," does that mean you think
16 it was approximately once a year?

17 A. Yes.

18 Q. Okay. All right. And then did you receive any
19 training on how to just generally investigate
20 complaints of sexual misconduct from any other
21 entities that we have not discussed yet today
22 while you were at Butler?

23 A. Let me see. So we talked about ATIXA, about
24 independent (sotto voce), like outside of like
25 what we've already discussed, like the ATIXA

Kody Rother
August 23, 2023

36

1 trainings, the ICESA, the Independent
2 College -- like Collegiate Association, I don't
3 believe so, and I don't recall. But those are
4 like the main ones that I do recall having
5 participated in.

6 (WHEREUPON, Deposition Exhibit 128 was
7 marked for identification.)

8 BY MS. FEDERICO:

9 Q. Okay. So I'm going to now introduce
10 Exhibit 128. And it is DEFT RESP_780. I will
11 say for the record that it is a 344-page
12 document titled "Title IX Training: An
13 Integrated and Coordinated Approach," and it
14 says "Presented by: Maureen Holland, Devon
15 Riley, Peter Lim, Michael Stackow." And it has
16 in the bottom right-hand corner a graphic that
17 says Cozen O'Connor, and it states "June 15 to
18 18, 2021."

19 I'm not going to make you go through this
20 whole document as it is quite voluminous, but
21 do you recall whether you attended this
22 training?

23 A. This was that company that I had mentioned that
24 they had partnered with that I couldn't recall.

25 Q. Okay.

Kody Rother
August 23, 2023

37

1 A. They also had like the videos as well. This
2 training, I -- I don't know if I was on campus
3 like during that time.

4 Q. Okay. So you don't know -- so you know that
5 you attended this training in some capacity,
6 but you're not sure if it was in person or
7 remote, is that what I'm getting?

8 A. Yeah, yeah.

9 Q. Okay.

10 A. And so I don't -- like, I don't recall being,
11 like, in person for, like, this training. I
12 don't recall being like -- I remember like
13 watching the videos, but I don't recall like
14 being in person for this.

15 Q. Okay. And this is -- just to be clear, this is
16 one of the trainings you referred to earlier by
17 a company that you could not recall the name.
18 That's correct?

19 A. Yeah, the Cozen O'Connor.

20 Q. Yeah, perfect.

21 A. Yeah.

22 Q. I'm going just to scroll to a certain page.
23 Okay, do you see here on page 205 that it says,
24 "Sensitivity to language and bias in a variety
25 of communities," and it lists various

Kody Rother
August 23, 2023

40

1 Q. Actually, wait, let me stop sharing for a
2 minute and just see if I can try to send it
3 this way.

4 MS. FEDERICO: Can we go off the record
5 for a moment?

6 (WHEREUPON, at this time a brief recess
7 was taken.)

8 BY MS. FEDERICO:

9 Q. So we are back on the record. I'll give you a
10 moment to look over this document, you don't
11 have to look it over in 100 percent detail at
12 the moment as we will be going through this,
13 you know, with specific portions, but if you
14 could just review it to see if you recognize
15 this document, that would be great.

16 A. Yeah, I mean, I recognize this document.

17 Q. And what is this document?

18 A. This is the final investigation report that was
19 put together for the Title IX case that was
20 filed at Butler.

21 Q. With John Doe as the respondent?

22 A. Correct.

23 Q. Okay.

24 A. Yes.

25 Q. And did you prepare this final investigation

Kody Rother
August 23, 2023

41

1 report?

2 A. I did.

3 Q. Okay. And what did your role as investigator
4 into the complaint against Doe entail?

5 A. Sure. It was to be a neutral party, to gather
6 information, so to have meetings with both
7 respondent and complainant; if they had
8 identified witnesses, to reach out and meet
9 with those individuals; to collect any
10 information that, like, either party or witness
11 may have, whether that's just, you know, them
12 sharing what it is that they know, or if they
13 have, like, documents, whether it's like text
14 messages, e-mails, things of that nature, and
15 so to collect all of that; and then provide --
16 so as the information is coming in, to share
17 that and provide, like, the respondent -- like
18 the opportunity to respond to that information
19 as part of like those meetings. So to ask like
20 both parties questions revolving around kind of
21 like the nature of the complaint.

22 Following all of that, it's to compile
23 all that information into a report that both
24 parties have the opportunity to review, and
25 provide -- I believe, yeah, they were able to

Kody Rother
August 23, 2023

62

1 As far as the others, like, I don't
2 recall if they had, like, so directly stated
3 kind of their relationship statuses.

4 Q. Okay. And do you recall whether the respondent
5 himself shared with you that he's gay?

6 A. I think as like him describing, like, in our
7 meetings, I think that he may have mentioned
8 having a boyfriend at some point, like
9 throughout all of this. I think so.

10 Q. Okay. And do you recall if you ever asked the
11 complainant her just general views on the
12 LGBTQ+ community?

13 A. No.

14 Q. Do you recall if you ever asked any of the
15 witnesses their views on the LGBTQ+ community?

16 A. I don't recall that, no.

17 Q. Did any of them share their views with you on
18 the LGBTQ+ community?

19 A. I don't believe so.

20 Q. Did any of the witnesses share their views with
21 you on the Respondent John Doe's relationship?

22 A. If they did, I think it may have been
23 Witness 3. I think that she had talked about,
24 like, their relationship.

25 Q. Okay. Did she at all express any type of view

Kody Rother
August 23, 2023

63

1 on his relationship or just the fact that he
2 had one?

3 A. I think that she had really just talked about
4 that he was in one. Like, I don't recall her
5 sharing like any, I guess, like, negative
6 sentiments about him like having a
7 relationship. I think if I recall, that -- I
8 think if I recall correctly, that she was --
9 like had positive regards for him being in a
10 relationship. But I don't recall her, like,
11 having anything, like, negative about like him
12 being in a relationship.

13 Q. Okay. And did you ever ask the complainant
14 about her own political views?

15 A. No.

16 Q. Did you ever ask any of the witnesses about
17 their political views?

18 A. No.

19 Q. Okay. Can you turn to page 16 of this
20 document? And you see in the second to last
21 paragraph where it states that the -- it's the
22 last sentence, and it says, "Complainant said
23 the friend group was heavily male, and they are
24 more conservative men." Do you see that part?

25 A. Yeah.

Kody Rother
August 23, 2023

64

1 Q. Did you ever ask --

2 MS. ROBERTS: I'm sorry, Regina, what
3 page are you on?

4 MS. FEDERICO: Oh, 16.

5 MS. ROBERTS: Thank you.

6 MS. FEDERICO: Of course.

7 BY MS. FEDERICO:

8 Q. Did you ever ask the complainant what she meant
9 by "conservative men"?

10 A. No, I did not follow up on that question, like
11 her statement on that.

12 Q. Okay. Did she -- strike.

13 Do you have if she ever offered any
14 further opinions on the statement about
15 conservative men being in the friend group?

16 A. I don't believe so, no.

17 Q. And did you ever ask whether the sexual
18 orientation of John Doe was ever discussed at
19 any time between the complainant and then her
20 pod mates or roommates?

21 A. No, I don't recall, like, asking her -- like,
22 me asking her that question, like if that was a
23 conversation topic they had.

24 Q. Do you recall if you ever asked any of the
25 witnesses that same question?

Kody Rother
August 23, 2023

75

1 frustrated about something that I've done, you
2 know, let me know. Like, I'm not a mind
3 reader. That -- I think signals, I think is,
4 or, like, non-verbals is what he had kind of
5 articulated that they had brought up. Like,
6 you know, you need to pick up the signals,
7 like, read the room sort of thing. And that
8 for him, like, he wasn't picking up on kind of,
9 like, those parts, that they felt that he
10 should have.

11 Q. Okay. And do you recall whether he shared if
12 it upset him in any way?

13 A. Yeah, I mean, this was, like -- I believe he
14 did talk about that this was his friend group,
15 like, this was, like, his core group of people
16 and it was upsetting to hear that they no
17 longer like -- that they are at least
18 considering or saying that, you know what,
19 like, we need to break this off and, like,
20 can't be, like, friends right now.

21 Q. Okay. And when he spoke about it, did you
22 gather that he was upset and emotional about
23 the friendship ending?

24 A. He appeared to be truthful that he was, like,
25 upset about this.

Kody Rother
August 23, 2023

78

1 Q. Okay. And do you see how that could be
2 upsetting in a way where a whole group of
3 people is aligned in their view and you're the
4 only person on your own that's being confronted
5 with these views?

6 MS. ROBERTS: Objection as to form and
7 foundation. And, Kody, I don't know if we told
8 you, any time we make an objection, it's just
9 for the record, you can always answer after
10 that.

11 THE WITNESS: Okay, cool. I was actually
12 about to ask that if, like, if that happens,
13 like, do you -- since there's not like a judge
14 to make a formal ruling on it. So, yes, and so
15 you still then respond to the question?

16 BY MS. FEDERICO:

17 Q. Yes.

18 A. Cool. Can you repeat the question?

19 Q. Sure.

20 MS. FEDERICO: Valerie, could you read it
21 back?

22 THE COURT REPORTER: Sure.

23 (WHEREUPON, at this time the requested
24 material was read back by the court reporter.)

25 A. It could be upsetting to people.

Kody Rother
August 23, 2023

80

1 subheading?

2 A. Yes.

3 Q. And then that continues through page 27. I'm
4 going to ask you to read that part now.

5 A. Okay. (Witness complied with request.) Okay.

6 Q. Thank you. So is that portion consistent with
7 your recollection of the meeting with Doe on
8 May 20, 2021?

9 A. It is.

10 Q. Okay. And I'm going to ask you to turn to
11 page 22.

12 A. Okay.

13 Q. And do you see under the second paragraph,
14 under that subheading, it says a little bit --
15 like third or fourth line down, it says,
16 "Respondent said that he feels Witness 3 is
17 attempting to get revenge on him." Do you see
18 that part?

19 A. I do.

20 Q. What do you recall about the respondent making
21 that statement to you?

22 A. So he mentioned that -- I asked if he could
23 describe kind of like what helped him come to
24 that -- kind of, like, that feeling, that this
25 person is trying to seek revenge on him. So

Kody Rother
August 23, 2023

82

1 like, fall apart, started from like what he
2 would have described as when she kind of came
3 into that picture of conversations.

4 Q. Okay. And --

5 A. He talked, like, that they were plotting or,
6 like, conspiring, like, against him.

7 Q. I'm sorry, can you just clarify that -- the
8 last statement you said to me. That you think
9 they were plotting against him or --

10 A. No, no, he had shared that. No, he had shared
11 that. Sorry. That was something he had shared
12 with me is that, like, that was something that
13 he felt, which is like why, like, that whole
14 like, revenge thing was kind of like coming to
15 fold.

16 Q. Okay. And did that raise any concerns to you?

17 A. Yeah, and we talked about that. Like we
18 started to break down -- you know, like, when
19 he would, like, share that sentiment, I would
20 ask him, you know, like tell me more about
21 that. Can you tell help me understand, like
22 what are the things that are like leading you
23 to feel this way, as he's like sharing these
24 things about how he's feeling from the friend
25 group.

Kody Rother
August 23, 2023

83

1 Q. Okay. And did it ever concern you enough that
2 you raised those concerns to the Title IX
3 coordinator to say, hey, this has come to my
4 attention, you know, you should check into
5 this?

6 A. Yeah. So after -- like, to keep her kind of,
7 like, a -- on top or abreast of where the
8 investigation is, we would have, like,
9 conversations and I would let her know like
10 what -- like some of that information has been
11 shared, like throughout the course of the
12 investigation and, like, that this could kind
13 of like come into different territories. And
14 so this was information that was shared.

15 Q. And when you say "different territory," what do
16 you mean?

17 A. Sure. I believe, like, he had talked about --
18 like I think one of the things that he had used
19 was like retaliation, that felt like he was
20 being retaliated against from these parties.
21 And so when, like, folks were making, like,
22 those types of, like, claims, you know, we look
23 into that. And so as part of, like, breaking
24 down the conversation of, you know, like,
25 what's leading you to feel this way, like, what

Kody Rother
August 23, 2023

84

1 are people doing, how is this happening, and
2 so -- and then that information was shared with
3 the Title IX coordinator.

4 Q. Okay.

5 A. Because like with the -- being a neutral
6 person, right, so like if that wasn't within
7 kind of like my scope was to make the decision
8 that retaliation is or is not taking place.

9 Q. So you share the information. Did you ever ask
10 her to look into it, or did you just share it
11 with her and then let her decide what to do?

12 A. Shared with.

13 Q. Shared with and then just let her decide what
14 to do with it?

15 A. Yes.

16 Q. Okay. Did you ever ask whether John Doe
17 thought that any of this related to his sexual
18 orientation at all?

19 A. I honestly don't recall asking him that
20 question.

21 Q. Okay. So on the bottom of page 22, a couple
22 lines up, about four or five lines up, it says,
23 "Rother asked if respondent could describe what
24 he means when he says everyone is against him.
25 Respondent said it began in the group chat

Kody Rother
August 23, 2023

85

1 complainant started. Then Witness 3 shared
2 with complainant, then Witness 1 and Witness 5
3 said things to him, and all the witnesses have
4 been asked to provide information against him.
5 Respondent said it is the full development of
6 how everything has unfolded that has led him to
7 understand that they are all conspiring against
8 him." Do you see that part?

9 A. I do.

10 Q. Okay. And what do you recall when respondent
11 told you that?

12 A. I think that was kind of like in response to
13 like his -- to allow him, like, the opportunity
14 of really kind of, like, spell out more, like
15 what are the things that he feels is leading
16 to, like, this conspiracy against him. And so
17 with that -- so outside of like providing him
18 the opportunity to kind of like respond out and
19 share what were some of the things that were
20 leading to him like feeling this way. I do
21 believe like in -- I had a conversation with
22 the, like, Title IX coordinator to let her know
23 that, like, this was information that was
24 shared as a part of, like, this investigation.

25 Q. Okay. And --

Kody Rother
August 23, 2023

86

1 A. I think that also -- I think I had -- with 1
2 and 5 because they were his -- they were
3 supposed to be his roommates, I think I
4 followed up on -- with them, like, to walk
5 through, like, you know, how did you make this
6 decision. Like, why -- so you are now saying
7 that you don't want to be roommates with him,
8 can you tell me more about that? Like, what
9 were kind of like your reasonings or rationale
10 as to, like, how you're making this decision?

11 And if I recall, one of them, and I don't
12 remember which one, if I recall correctly, had
13 talked about like the boundary thing. Is that
14 it was like something like he just didn't want
15 to deal with in an off-campus environment.
16 That these -- if this is what he's hearing,
17 like, he just doesn't want to have that in his
18 living environment later.

19 Q. Okay. And you mentioned that you had these
20 meetings with the Title IX coordinator, who was
21 Maria Kanger at the time, is that right?

22 A. Yes.

23 Q. And did you have, like, regular status meetings
24 on some kind of like weekly basis, or was it
25 one-off, or how did those meetings occur?

Kody Rother
August 23, 2023

87

1 A. Sure. It wasn't like a regularly scheduled,
2 like, you know, every week, like, here's kind
3 of like a check-in. So more kind of like
4 one-off as like things develop, like as the
5 meetings were taking place, as to like, all
6 right, this is where I am in the investigation
7 and, like, here are, like, portions that have,
8 like, come up as a part of this investigation.

9 Q. Okay. And did you ever say to the Title IX
10 coordinator that potentially some of the
11 information you've received could possibly
12 amount to a violation of harassment?

13 MS. ROBERTS: Objection as to form and
14 foundation.

15 A. Got it. I mean, we had, like, conversations
16 about like the information that was being
17 shared. You know, again, like with this, like,
18 scope here was on this particular investigation
19 and, like, I wasn't a decision-maker, right, so
20 part of the role in this process is not to, you
21 know, make a decision whether or not someone
22 did or did not, you know, violate a policy.
23 And so it was me passing information to the
24 Title IX coordinator as a -- like an update and
25 like process as to like this is what was shared

Kody Rother
August 23, 2023

88

1 with me.

2 BY MS. FEDERICO:

3 Q. So you didn't even bring forward, or at least
4 your understanding of your role was not even to
5 say this information is reported to me and it
6 could possibly implicate a policy that you
7 should look into or you should further see if
8 there's something going on here?

9 A. Right. It's -- you know, again, like part of
10 what my role is was to keep her like abreast of
11 like the status and information within the,
12 like, investigation, and kind of like that for
13 if there is a possible policy violation, the
14 Title IX coordinator, like, would look into
15 that.

16 Q. Okay. All right. So you already said earlier
17 that the investigation and adjudication did not
18 resolve before you departed Butler, is that
19 correct?

20 A. That is what I have learned.

21 Q. Okay. Do you recall any witness accounts of
22 the mediation that occurred with all those pod
23 mates and the complainant and the respondent
24 and the RAs?

25 A. I'm not sure I understand your question.

Kody Rother
August 23, 2023

90

1 hadn't. That, like, when he -- what he had
2 shared with me is that feeling of being
3 overwhelmed, learning all this information, and
4 not necessarily soaking in, like, what may have
5 been, like, said or stated from, like, the
6 other parties and kind of, like, his default is
7 just to kind of agree and move forward, but
8 that he didn't necessarily, like, recollect,
9 like, others saying like specific things that
10 were upsetting, and in particular, like
11 Witness 3, his roommate at the time.

12 Q. Got it. Do you recall whether either of the
13 RAs at all discussed the respondent being upset
14 at the mediation?

15 A. Yeah, I believe so. One of them, if I recall,
16 like, stayed after to talk to him because they
17 could see -- like what they described to me is
18 that they could see or feel, you know, how that
19 he was, like, upset or hurt, taken aback, like,
20 you know, kind of all those things, and had
21 stayed, if not both -- I know at least one
22 stayed, if not both, to kind of like talk
23 through and, like, process what just took place
24 with him.

25 Q. Yeah. Okay. Is there anything else that you

Kody Rother
August 23, 2023

121

1 STATE OF INDIANA)
2) SS:
3 COUNTY OF JOHNSON)
4

5 CERTIFICATE
6

7 I, Valerie Fillenwarth, RPR, a Notary
8 Public in and for the County of Johnson, State
9 of Indiana, maintaining an office in Johnson
10 County, Indiana, do hereby certify the
11 following:
12

13 That the witness herein, KODY ROTHER,
14 was first duly sworn to tell the truth, the
15 whole truth and nothing but the truth in the
16 foregoing deposition;
17

18 That all testimony was taken down in
19 stenographic notes and afterward reduced to
20 typewritten form under my direction and then
21 presented to counsel for the purpose of
22 obtaining the deponent's signature;
23

24 That I recorded and transcribed any and
25 all objections made by counsel and the reasons

Kody Rother
August 23, 2023

122

1 therefore; and

2
3 That I am not a relative or employee,
4 attorney or counsel of any of the parties, nor
5 a relative or employee of such attorney or
6 counsel, nor am I financially interested in
7 this action.

8
9 IN WITNESS HEREOF, I have hereunto set my
10 hand and affixed my Notarial Seal this 18th day
11 of September 2023.

12
13
14
15
16 Valerie Fillenwarth, RPR
17 Notary Public
18 (Electronically signed)

19
20
21
22
23 Commission Number: NP0749965
24 County of Residence: Johnson
25 My Commission Expires on: July 5, 2031